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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,008	01/18/2001	Tomohiro Tsunoda	450100-02948	7265
20999	7590	08/24/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			SALTARELLI, DOMINIC D	
			ART UNIT	PAPER NUMBER

2611

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/765,008

Applicant(s)

TSUNODA ET AL.

Examiner

Dominic D. Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 49, 51, 55, 87, 91 and 93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 51 and 93 is/are allowed.
- 6) ☒ Claim(s) 49, 55, 87 and 91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/23/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 49 and 91 rejected under 35 U.S.C. 103(a) as being unpatentable over Maillard (of record) in view of Sezan (of record), Ellis (of record), Chaganti et al. (6,845,448) [Chaganti], Ellesson et al. (6,098,099) [Ellesson], Levinson (5,404,505), Hooper et al. (5,671,225) [Hooper], and Fisher et al. (5,367,686) [Fisher].

Regarding claims 49 and 91, Maillard discloses a data communication system (fig. 1) comprising:

A transmitting apparatus (fig. 1, broadcaster 170, servers 150 and 180, database 100, and data inserter 110) incorporating a contents data generating means for generating contents data (broadcaster 170 and data inserter 110);

A plurality of receiving apparatuses (fig. 1, interactive terminal 160, paragraph 34);

A data transmitting apparatus which transmits data between said transmitting apparatus and said receiving apparatuses (fig. 1, broadcasting network 120 and return path network 140, paragraphs 34 and 35);

A data selecting and receiving means wherein at least one of said plural receiving apparatuses selects and receives data transmitted from said

transmitting apparatus (the receiver means of interactive terminal 160, paragraph 37);

A received data processing means for processing data received by said data selecting and receiving means (the processor of interactive terminal 160, paragraph 37), and

A profile ID linking means which initially generates a profile ID corresponding to a profile related to said contents data and then causes said profile ID to be linked with said contents data (the profile ID is, in this example, the 544 byte code, or filter, associated with broadcast material, paragraph 56); wherein

A receiving device (160) incorporating a received profile ID data memory means for storing a profile ID data (paragraph 38) including a receivable profile ID (in instances where the server 180 updates stored profile data, paragraph 42) is incorporated in at least one of said receiving apparatuses; and

Said data selecting and receiving means selects and receives data based on said profile ID (paragraphs 47, 48, and 57).

Maillard fails to disclose the received profile ID data memory means is interchangeably incorporated in the receiving apparatus, and wherein said profile comprises such a data related to the contents of each contents data, such a data related to said transmitting apparatus, and such a data related to said receiving apparatuses, and wherein data related to said receiving apparatuses comprises the sexual classification of the user, age, blood type, birth date, full name,

registered address, zip code, IP address, stationary telephone number, portable telephone number, mail address, kinds of available equipment for constituting a receiving apparatus, receptive capacity of the available receiving apparatus, reproducing capacity of the available receiving apparatus, operating system of the available receiving apparatus, names of the POP/SMTP servers, group ID of the receiving parties, group identifier, individual ID, and individual passwords.

In an analogous art, Sezan teaches storing profile data used in selecting content for display to users on a modular and portable storage media (col. 5 line 66 – col. 6 line 22), allowing a user to apply their personal filtering preferences to any number of receivers (col. 10, lines 38-65). Sezan additionally teaches associating profile data with content that includes data related to the contents of each contents data (program description data, col. 4, lines 20-39 and col. 4 line 40 – col. 5 line 9), and data related to the receiving apparatus which receives the data (system description data, col. 4, lines 20-39 and col. 6, lines 23-38), said data including zip code and age, providing the benefit of dynamic content filtering which is independent of the particular means of transmission and reception (col. 7 line 16 – col. 8 line 10).

It would have been obvious at the time to a person of ordinary skill in the art to modify the apparatus disclosed by Maillard to include the received profile ID data memory means to be interchangeably incorporated in the receiving apparatus, as taught by Sezan, for the benefit of allowing a user to apply their personal filtering preferences for selectively receiving content to any number of

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receiver apparatuses. Additionally, it would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Maillard to include in the profile data related to the contents of each contents data and data related to the receiving apparatus, including zip code and age, as taught by Sezan, for the benefit of performing dynamic content filtering which is independent of the particular means of transmission, thus the content could be received over a cable network, satellite broadcast, or even the Internet, and independent of the particular means of reception, as the receiver could be a computer, television, set top box, or other device.

Maillard and Sezan fail to disclose the profile comprises data related to said transmitting apparatus and wherein data related to said receiving apparatuses comprises the sexual classification of the user, blood type, birth date, full name, registered address, IP address, stationary telephone number, portable telephone number, mail address, kinds of available equipment for constituting a receiving apparatus, receptive capacity of the available receiving apparatus, reproducing capacity of the available receiving apparatus, operating system of the available receiving apparatus, names of the POP/SMTP servers, group ID of the receiving parties, group identifier, individual ID, and individual passwords..

In an analogous art, Ellis teaches an interactive video distribution system wherein profile data is associated distributed content (scheduling and source information, col. 4, lines 19-41), wherein said profile data includes data related to

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the transmitting apparatus (such as the programming schedules the transmitting apparatus is operating by, col. 8, lines 37-67), providing the benefit of allowing users to access desired data relating to the transmitting apparatus, such as the display of a programming guide which gives the times of broadcast of various programs (col. 9, lines 16-26) and identification information which identifies the source of the content (col. 13, lines 37-50 and col. 11, lines 46-52).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Maillard and Sezan to include in the profile data related to said transmitting apparatus, as taught by Ellis, for the benefit of allowing users to access desired data relating to the source of the content, such as future scheduling and content source information.

Maillard, Sezan, and Ellis fail to disclose data related to said receiving apparatuses comprises the sexual classification of the user, blood type, birth date, full name, registered address, IP address, stationary telephone number, portable telephone number, mail address, kinds of available equipment for constituting a receiving apparatus, receptive capacity of the available receiving apparatus, reproducing capacity of the available receiving apparatus, operating system of the available receiving apparatus, names of the POP/SMTP servers, group ID of the receiving parties, group identifier, individual ID, and individual passwords.

In an analogous art, Chaganti teaches a personal database (col. 5, lines 29-42) which includes the sexual classification of the user (col. 7, lines 6), blood

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type (col. 7, lines 14-17), birth date (col. 7, lines 6), full name (col. 6, table 1), registered address (col. 6, line 66), IP address (personal web home page, col. 7, lines 1), stationary telephone number (col. 6, table 1, "work phone"), portable telephone number (col. 6, table 1, "mobile phone"), mail address (same as registered address), names of the POP/SMTP servers (known because email address is known, col. 6, table 2), group ID of the receiving parties and group identifier (security classification, col. 1, lines 1-14), individual ID and individual passwords (col. 10, lines 43-44), providing very comprehensive data about a user.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system of Maillard, Sezan, and Ellis to include in the data related to said receiving apparatus: the sexual classification of the user, blood type, birth date, full name, registered address, IP address, stationary telephone number, portable telephone number, mail address, names of the POP/SMTP servers, group ID of the receiving parties, group identifier, individual ID, and individual passwords, as taught by Chaganti, for the benefit of providing very comprehensive data about a user.

Maillard, Sezan, Ellis, and Chaganti fail to disclose data related to said receiving apparatuses comprises kinds of available equipment for constituting a receiving apparatus, receptive capacity of the available receiving apparatus, reproducing capacity of the available receiving apparatus, and operating system of the available receiving apparatus.



In an analogous art, Ellesson teaches recording in a database information describing the kinds of equipment available to clients of a network (col. 5, lines 55-65), providing information regarding the hardware being utilized by clients.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Maillard, Sezan, Ellis, and Chaganti to include information describing comprises kinds of available equipment for constituting a receiving apparatus, as taught by Ellesson, for the benefit of providing information regarding the hardware being utilized by clients, often necessary when utilizing said hardware for displaying content.

Maillard, Sezan, Ellis, Chaganti, and Ellesson fail to disclose data related to said receiving apparatuses comprises receptive capacity of the available receiving apparatus, reproducing capacity of the available receiving apparatus, and operating system of the available receiving apparatus.

In an analogous art, Levinson discloses including in a profile associated with a receiver information regarding the receptive capacity of the receiver (available disk space for storing information, col. 15, lines 4-25), allowing a receiver to intelligently store information by knowing the space constraints for said storage.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Maillard, Sezan, Ellis, Chaganti, and Ellesson to include data related to said receiving apparatuses comprises receptive capacity of the available receiving apparatus, as taught by Levinson,

for the benefit of allowing a receiver to intelligently store information by knowing the space constraints for said storage, being able to more effectively filter data by only storing the most needed or relevant data based on available space.

Maillard, Sezan, Ellis, Chaganti, Ellesson, and Levinson fail to disclose data related to said receiving apparatuses comprises reproducing capacity of the available receiving apparatus and operating system of the available receiving apparatus.

In an analogous art, Hooper teaches including in a profile associated with a receiver information regarding the reproducing capacity of the receiver (specifically, the profile includes the bandwidth limitations of the receiver for receiving and displaying content, col. 5, lines 34-40), for the benefit of allowing a receiver to receiver data in the proper format that is displayable by the receiver.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Maillard, Sezan, Ellis, Chaganti, Ellesson, and Levinson to include information regarding the reproducing capacity of the receiver, as taught by Hooper, for the benefit of allowing a receiver to receiver data in the proper format that is displayable by the receiver.

Maillard, Sezan, Ellis, Chaganti, Ellesson, Levinson, and Hooper fail to disclose data related to said receiving apparatuses comprises the operating system of the available receiving apparatus.

In an analogous art, Fisher teaches including in a profile associated with a receiver information regarding the operating system of the receiver (col. 6, lines

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37-44), for the benefit of ensuring data's compatibility with the receiver (col. 6, lines 28-36).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Maillard, Sezan, Ellis, Chaganti, Ellesson, Levinson, and Hooper to include information regarding the operating system of the receiver, as taught by Fisher, for the benefit of ensuring received data's compatibility with the receiver.

3. Claims 55 and 87 rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (5,559,549) [Hendricks] in view of Maillard (EP 0 963 115 A1, of record) and Sezan et al. (6,236,395, of record).

Regarding claims 55 and 87, Hendricks discloses a data communication system (fig. 1) comprising:

- a transmitting apparatus (fig. 1, operations center 202) incorporating a contents data generating means for generating a contents data (col. 6, lines 61-67);

- a plurality of receiving apparatuses (fig. 1, cable headend 208 and set top terminals 220);

- a data transmitting apparatus which transmits data between said transmitting apparatus and said receiving apparatuses (fig. 1, uplink site 204);

- a data selecting and receiving means where at least one of said plural receiving apparatuses selects and receives data transmitted from said

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transmitting apparatus (the cable headend selects and receives programming data from the operations center, col. 8 lines 67 – col. 9 line 5); and

a received data processing means for processing data received by said data selecting a receiving means (col. 9, lines 1-22),

wherein at least one of said receiving apparatuses further comprises:

a contents generating means which generates contents data (cable headend also generates local content for distribution, col. 9, lines 6-12); and

a data transmitting means which transmits said contents data via broadcasting form (output of cable headend 208 to the cable system 210 shown in fig. 1).

Hendricks fails to disclose:

- a profile ID linking means which initially generates a profile ID corresponding to a profile related to said contents data and then causes said profile ID to be linked with said contents data
- wherein a receiving device incorporating a received profile ID data memory means for storing a profile ID data including a receivable profile ID is interchangeably incorporated in at least one of said receiving apparatuses, and said data selecting a receiving means selects and receives data based on said profile ID

and said at least one receiver apparatus further comprises:

- a profile generating means which generates such a profile related to said contents data generated by said contents generating means or transmission and reception thereof
- a profile ID generating means which generates a profile ID corresponding to said profile of said contents data generated by said profile generating means
- a profile data memory means which stores such a profile data including said profile generated by said profile generating means and related to said contents data or transmission and reception of said contents data and also including said profile ID generated by said profile ID generating means and related to each of said corresponding profiles
- a profile selecting means which selects at least one profile and a profile ID corresponding thereto from said profile data sotring in said profile data memory means
- a profile ID determining means which, based on a profile ID generated by said profile ID generating means and such a profile ID selected by said profile selecting means, determines a proper profile ID that should be linked with said contents data
- a profile ID writing means which writes said profile ID determined by said profile ID determining means into said corresponding contents data; and

- said data transmitting means transmits said contents data containing said profile ID written by said profile ID writing means

In an analogous art, Maillard teaches a system for associating profile data with contents that includes a profile ID linking means which initially generates a profile ID corresponding to a profile related to said contents data and then causes said profile ID to be linked with said contents data (the profile ID, in this example, is the 544 byte code, or filter, associated with the broadcast material, paragraph 56), wherein a receiving device (fig. 1, interactive terminal 160) incorporating a received profile ID data memory means for storing a profile ID data (paragraph 38) including a receivable profile ID (in instances where the server 180 updates stored profile data, paragraph 42) is incorporated in a receiving apparatus (allowing the receiver to perform filtering, paragraph 57). Further, profile generating means, profile ID generating means, profile data memory means for storing the profile and ID, profile selecting means, profile ID determining means, and a profile ID writing means are inherently present, as they are a series of necessary steps in order to associate profile ID's with broadcast content in such a way as to target the broadcast content to specific desired profiles as described in paragraphs 45 and 72, because before a profile can be used for targeting content, that profile must first be created, just as the profile ID used for filtering must be created, and a computer system performing such necessarily stores such values in a memory, and further would comprise the means for dynamically performing the necessary associations of profiles and

profile ID's with content in order to ultimately target the content to the desired receivers.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Hendricks to include a profile ID linking means which initially generates a profile ID corresponding to a profile related to said contents data and then causes said profile ID to be linked with said contents data incorporating a received profile ID data memory means for storing a profile ID data including a receivable profile ID is incorporated in a receiving apparatus, and also in a receiving apparatus (the cable headend taught by Hendricks), including profile generating means, profile ID generating means, profile data memory means for storing the profile and ID, profile selecting means, profile ID determining means, and a profile ID writing means, as taught by Maillard, for the benefit of targeting broadcast content.

Hendricks and Maillard fail to disclose the received profile ID memory means is interchangeably incorporated into the receiving apparatus.

In an analogous art, Sezan teaches storing profile data used in selecting content for display to users on a modular and portable storage media (col. 5 line 66 – col. 6 line 22), allowing a user to apply their personal filtering preferences to any number of receivers (col. 10, lines 38-65).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system of Hendricks and Maillard to include the received profile ID memory means is interchangeably incorporated into the receiving apparatus,

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as taught by Sezan, for the benefit of allowing a user to apply their personal filtering preferences for selectively receiving content to any number of receiver apparatuses.

***Allowable Subject Matter***

4. Claims 51 and 93 are allowed.

***Conclusion***

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.



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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

A handwritten signature in black ink, appearing to read 'Saltarelli', is written over three horizontal lines.

**HAITRAN  
PRIMARY EXAMINER**